HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.10981 OF 2006

-
-

Between:

M/s.Shiva Rama Krishna Finance, Jagtial
Rep. by its Partner, Sama Vidhya Sagar,

…Petitioner

A n d

Andhra Pradesh State Consumer Disputes Redressal Commission, Eruvaka Bhavan, Khairatabad, Hyderabad and others

…Respondents

:: **O R D E R** ::

Counsel for petitioner : Sri C.Ramesh Sagar

Counsel for respondents :

17th August 2006

Per G.V.Seethapathy, J

This is a petition for quashing order dated 12.11.2003 passed by the District Consumer Forum, Karimnagar (for short `the District Forum') in C.D.No.87 of 2001 whereby the petitioner herein was directed to pay Rs.20,000/- to the complainant (respondent No.3 herein) together with interest @ 9% per annum from 1-8-2000 till the date of realization and also pay costs of Rs.1,000/-.

One Gattu Ranjith Kumar filed complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act') against the petitioner and Gudikondala Ravinder (respondent No.4 herein) alleging therein that he deposited an amount of Rs.10,000/- with the firm on 1-8-1994 under fixed deposit account number 1250 and in spite of repeated demands and legal notice, the firm failed to repay the maturity amount of Rs.20,000/-, which amounted to deficiency in service.

The petitioner herein filed counter and raised an objection as to the very maintainability of the complaint by saying that the firm consisted of 17 partners and in the absence of other partners, the claim of the complainant should not be entertained. Respondent No.4 did not appear and, therefore, he was proceeded ex parte.

On a consideration of the material available on record, the District Forum vide its order dated 17-12-2004 allowed the complaint of Gattu Ranjith Kumar and issued directions to which reference has

been made hereinabove. The District Forum held that there was deficiency in service on the part of the opposite party No.1 i.e. the petitioner herein and, therefore, it was liable to pay the amount to the complainant with interest.

In the affidavit filed by Sri Sama Vidhya Sagar in support of the writ petition, it has been averred that he is one of the partners of the firm and there are 17 other partners. He has further averred that complaint filed by respondent No.1 was not maintainable because he had not impleaded other partners as parties in the complaint. He has further averred that in view of the provisions contained in Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 (for short, 'the 1999 Act'), the District Forum could not have entertained the complaint preferred by respondent No.1. Still further, Sri Sama Vidhya Sagar has pleaded that appeal preferred by the petitioner against the order of the District Forum, which was registered as F.A. (SR) No.1539 of 2005, was dismissed by the Andhra Pradesh State Consumer District Redressal Commission vide its order dated 17-2-2006 on the ground of non-compliance of Section 15 of the 1986 Act and, therefore, no other remedy is available to the petitioner except to file petition under Article 226 of the Constitution of India.

Sri C.Ramesh Sagar, learned counsel for the petitioner argued that the order passed by the District Forum should be declared as nullity because the complaint filed by respondent No.1 was not maintainable. Learned counsel submitted that the 1999 Act constitutes complete Code in the matter of recovery of the amount due to the depositor and, therefore, the District Forum did not have the jurisdiction to entertain the complaint filed under Section 12 of the 1986 Act.

We have thoughtfully considered the arguments and submissions of the learned counsel, but have not felt persuaded to

entertain the writ petition. The District Forum considered the matter on merits and directed the petitioner herein to pay the amount due to the complainant. Admittedly, the appeal filed by the petitioner in FA (SR) No.1539 of 2005 was dismissed by the State Commission. The petitioner has not challenged the order of the State Commission in this writ petition. In our opinion, by having submitted to the jurisdiction of the District Forum, the petitioner will be deemed to have waived his challenge to the competency of the District Forum to entertain the complaint filed by the complainant.

Even otherwise, we are convinced that the provisions contained in the 1999 Act cannot be construed as imposing bar to the jurisdiction of the District Forum to entertain the complaint made under Section 12 of the 1986 Act. The 1999 Act has been enacted by the State Legislature for protecting the interests of depositors. Section 2 (b) of the 1999 Act defined the term 'deposit' as the deposit of sum of money either in lump sum or installments made with a financial establishment for a fixed period, for interest or return in any kind. Section 2 (c) defines the term 'financial establishment' as an individual, an association or body of individual or a firm carrying on the business of receiving deposits under any scheme or arrangement or in any other manner but does not include a company registered under the Companies Act, 1956 or a corporation or a cooperative society owned and controlled by any State Government or the Central Government, or a banking company as defined in Section 5 (c) of the Banking Regulation Act, 1949 or a non-banking financial company as defined in Clause (i) of Section 45-I of the Reserve Bank of India Act, 1934. Section 3, which begins with non-obstante clause, lays down that where any financial establishment defaults or is likely to default in the return of deposits in cash or kind, the Government can pass interim

order for attaching the money or other property belonging to financial establishment. Section 4 defines the competent authority to exercise control over the properties attached by the Government under Section 3. Section 5 provides for penalty for default in the return of deposit or payment of interest. Sections 6 and 7 provide for constitution of special courts to deal with the cases of the defaulters and powers of such courts to attach the property of the defaulting financial establishment or the concerned person.

The 1986 Act was enacted by the Parliament to provide for better protection of the interests of consumers. Chapter III of the Act provides for establishment of consumer disputes redressal agencies at the district level, State level and national level; jurisdiction of these agencies and procedure to be followed for redressal of the grievances of the consumers. The District Forums are empowered to deal with the complaints relating to defects in the goods or deficiency of services. The purpose and scheme of the two enactments are entirely different and there is no inconsistency between them. While the consumer fora created under the 1986 Act give protection to the consumers against defective goods and services, the 1999 Act provides for imposition of penalty on the financial establishments committing default in the return of deposit and payment of interest. In our opinion, the two statutes are complementary to each other. Therefore, it is not possible to agree with the learned counsel for the petitioner that the District Forum did not have the jurisdiction to entertain the complaint.

In the result, the writ petition is dismissed.

As a sequel to the dismissal of the writ petition, interim order dated 30-5-2006 shall automatically stands vacated.

G.V.SEETHAPATHY, J

G.S.SINGHVI, CJ

17th August 2006

RAR